

### REMARKS

In the Office Action mailed on June 9, 2004, claims 1-45 were rejected. Claims 1-45 are now pending in the application. In view of the remarks and amendments, Applicant respectfully requests reconsideration of the application.

Claims 1-45 were rejected under U.S.C. § 103(a) as being unpatentable over US Patent Application 2003/0005433 A1 in view of US Patent Application 2002/0164973 A1. Applicant respectfully disagrees in light of the amended claims.

Applicant has amended Claims 1, 15, 28, 33, 39, and 45 to include the limitation of:

wherein said search request is independent of a  
frequency corresponding to said content that is  
broadcasted

The US Patent Application 2002/0164973 A1 states that the tag features works with both downloadable audio content and broadcast radio content. For downloaded content, the song title and other metadata will be embedded in the digital audio file and thus the song title and other information can be accessed directly by the control firmware. The US Patent Application 2002/0164973 A1 further states that radio content tagging involves recording *the radio tuner frequency*, time, and date information. When this data is transferred to a specific tag processing software application on a server on the Internet, the data can be used to retrieve information about that particular song through radio station playlist information services that publish play lists for broadcast content. (Paragraph 127, emphasis added)

In marked contrast with the US Patent Application 2002/0164973 A1, independent Claims 1,15, 28, 33, 39, and 45 utilize a search request with the marked data that is independent of the frequency corresponding with the content that is broadcasted. The US Patent Application 2002/0164973 A1 teaches away from Claims 1,15, 28, 33, 39, and 45 by stating that tagging radio content includes recording the radio tuner frequency in addition to the time and date information.

Therefore, US Patent Application 2002/0164973 A1 either singly or in combination with US Patent Application 2003/0005433 A1 does not anticipate Claims 1,15, 28, 33, 39, and 45. Thus, independent Claims 1,15, 28, 33, 39, and 45 are in condition for allowance. In addition, Claims 2-14 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above. Claims 16-27 depend directly or indirectly on Claim 15 and therefore, are patentable for at least the same reasons discussed above. Claims 29-32 depend directly or indirectly on Claim 28 and therefore, are patentable for at least the same reasons discussed above. Claims 34-38 depend directly or indirectly on Claim 33 and therefore, are patentable for at least the same reasons discussed above. Claims 40-44 depend directly or indirectly on Claim 39 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

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Respectfully submitted,



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